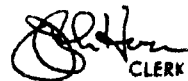


FILED

NOV 12 2015

  
CLERK

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

\*\*\*\*\*

CONNIE HOWES, Individually and as  
Personal Representative of the Estate of  
TROY HOWES,

Plaintiff,

vs.

YANKTON MEDICAL CLINIC, P.C., and  
MICHAEL PIETILA, M.D.,

Defendants.

CIV. 15-4177

NOTICE OF REMOVAL

\*\*\*\*\*

Pursuant to 28 U.S.C §§ 1441 and 1446, Defendants Yankton Medical Clinic, P.C. and Michael Pietila, M.D., with full reservation of any and all defenses, remove this action from the First Judicial Circuit, Yankton County, South Dakota, to the United States District Court for the District of South Dakota, Southern Division.

As grounds for this removal, Defendants Yankton Medical Clinic, P.C. and Michael Pietila, M.D. state the following:

1. On October 13, 2015, Plaintiff Connie Howes, Individually and as Personal Representative of the Estate of Troy Howes, filed a Complaint and Jury Demand in the First Judicial Circuit, Yankton County, South Dakota, captioned *Connie Howes, Individually and as Personal Representative of the Estate of Troy Howes v. Yankton Medical Clinic, P.C. and Michael Pietila, M.D.* On October 13, 2015, Plaintiff Connie Howes, Individually and as Personal Representative of the Estate of Troy Howes, caused to be served on Defendants Yankton Medical Clinic, P.C. and Michael Pietila, M.D. a Summons and Complaint in Civ. 15-

282, pending in Yankton County, South Dakota. Pursuant to 28 U.S.C. § 1446(a), a copy of the Summons and Complaint are attached hereto and marked as Exhibit A and Exhibit B, respectively.

2. Plaintiff's Complaint includes a claim for damages against all Defendants under Sections 1 and 2 of the Sherman Act to restrain allegedly anticompetitive conduct by Defendants and to remedy the effects of their past alleged unlawful conduct. Plaintiff's Complaint also includes claims against Defendants for negligent infliction of emotional distress, intentional infliction of emotional distress, tortious interference with a business relationship, breach of contract, breach of fiduciary duty, and conspiracy.

3. The United States District Court for the District of South Dakota, Southern Division, has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the Complaint includes an action arising under the laws of the United States. In accordance with 28 U.S.C. § 1367, the United States District Court for the District of South Dakota, Southern Division, has supplemental jurisdiction over the state law claims alleged in Plaintiff's Complaint.

4. Pursuant to 28 U.S.C. § 1446(d), Defendants Yankton Medical Clinic, P.C. and Michael Pietila, M.D. will file a copy of this Notice of Removal with the Clerk of the First Judicial Circuit, Yankton County, South Dakota, promptly after the filing of this Notice.

5. Defendants were served on October 13, 2015, so this removal is timely pursuant to 28 U.S.C. § 1446(b).

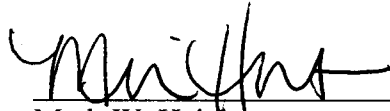
6. The United States District Court for the District of South Dakota, Southern Division, is the appropriate Court for filing a Notice of Removal from the First Judicial Circuit, Yankton County, South Dakota, where the action is currently pending. *See* 28 U.S.C. § 1441(a).

Accordingly, Defendants seek to remove this action to the United States District Court for the District of South Dakota, Southern Division.

WHEREFORE, Defendants remove this action from the First Judicial Circuit, Yankton County, South Dakota, to the United States District Court for the District of South Dakota, Southern Division.

Dated at Sioux Falls, South Dakota, this 12<sup>th</sup> day of November, 2015.

DAVENPORT, EVANS, HURWITZ &  
SMITH, L.L.P.



---

Mark W. Haigh  
Melissa C. Hinton  
206 West 14<sup>th</sup> Street  
PO Box 1030  
Sioux Falls, SD 57101-1030  
Telephone: (605) 336-2880  
Facsimile: (605) 335-3639  
*Attorneys for Defendants*

### CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendants, hereby certifies that a true and correct copy of the foregoing "Notice of Removal" was served by mail upon:

Timothy L. James  
James & Larson Law  
P. O. Box 879  
311 Walnut Street  
Yankton, SD 57078  
tim@yankton.lawyer

on this 12<sup>th</sup> day of November, 2015.

A handwritten signature in black ink, appearing to read "Tim James", is written over a horizontal line.